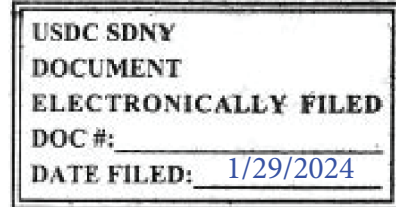


BAKER, LESHKO, SALINE & DRAPEAU, LLP
Attorneys for Plaintiff
One North Lexington Avenue
White Plains, New York 10601-1712
914.681.9500



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MEMO ENDORSED

<p>136 FIELD POINT CIRCLE HOLDING COMPANY, LLC,</p> <p>Plaintiff,</p> <p>-against-</p> <p>ALEXANDER RAZINSKI, TANYA RAZINSKI, and INVAR INTERNATIONAL HOLDINGS, INC.,</p> <p>Defendants.</p>	<p>21 Civ. 11076 (JHR)</p> <p><u>NOTICE OF MOTION</u></p>
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C O U N S E L O R S :

PLEASE TAKE NOTICE that upon the annexed affidavit of Mitchell J. Baker, sworn to January 23, 2024, plaintiff 136 Field Point Circle Holding Company, Inc. will move this Court, at the Courthouse, 500 Pearl Street, New York, New York 10007, Courtroom 12B, at a date and time designated by this Court, for an Order pursuant to F.R.Civ.P. 41(b) granting 136 Field Point Circle Holding Company, LLC a default judgment in its favor against defendant Invar International Holding Company, Inc. for its failure to prosecute this action, (2) directing that a hearing be held for a determination of damages, and (3) together with such other, further and different relief this Court deems just.

Dated: White Plains, New York
January 23, 2024

BAKER, LESHKO, SALINE & DRAPEAU, LLP
Attorneys for Plaintiff

By: 

Mitchell J. Baker (MB-4339)

To:

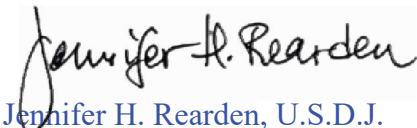
Alexander Razinski
Post Office Box 8184
White Plains, New York 10602
(Via ECF and Federal Express)

Tanya Razinski
Post Office Box 8184
White Plains, New York 10602
(Via ECF and Federal Express)

Application DENIED without prejudice to renewal. Plaintiff failed to obtain the “Clerk’s Certificate of Default . . . required before seeking a default judgment.” S.D.N.Y. Electronic Case Filing R. & Instr. 16.1; *see also* Local Civ. R. 55.1 (“A party applying for entry of default under Fed. R. Civ. P. 55(a) shall file . . . a request for a Clerk’s Certificate of Default . . .”).

Additionally, “Federal Rule of Civil Procedure 55”—not Rule 41, on which Plaintiff relies, *see* ECF No. 59 —“governs the entry of default and default judgment.” *Michael Kors, L.L.C. v. Canal Venture, Inc.*, No. 15 Civ. 05788 (TPG), 2017 WL 4217152, at *1 (S.D.N.Y. Sept. 21, 2017). When Plaintiff renews its motion, it shall do so in accordance with Rule 55 of the Federal Rules of Civil Procedure, Rule 55.1 of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, Rule 16.1 of the Southern District of New York Electronic Case Filing Rules & Instructions, and Rule 5.H of the Court’s Individual Rules and Practices in Civil Cases.

The Clerk of Court is directed to terminate ECF Nos. 59-60. SO ORDERED.



Jennifer H. Rearden, U.S.D.J.

Dated: January 29, 2024